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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/521,630	01/19/2005	Eiji Ueda	10873.1556USWO	4212

23552 7590 06/13/2006

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MINNEAPOLIS, MN 55402-0903

EXAMINER
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NGUYEN, LINH THI

ART UNIT	PAPER NUMBER
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2627

DATE MAILED: 06/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/521,630	<b>Applicant(s)</b> UEDA ET AL.	
	<b>Examiner</b> Linh T. Nguyen	<b>Art Unit</b> 2652	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 19 January 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 January 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 5, 7, 8 and 11 are rejected under 35 U.S.C. 102(b) as being unpatentable by Kaneko et al (US Patent Number 5471449).

In regards to claims 1 and 7, Kaneko et al discloses a deficiency detecting apparatus (Fig. 1), which detects deficiencies on an information medium that are unable to be recorded or reproduced when an information signal is recorded/reproduced with respect to the information medium using a light beam generated by a laser light source (Column 2 lines 14-20), comprising: a power adjusting section (APC) for adjusting an emitting power of the laser light source to an optimum value (Column 3, lines 56-60); and a deficiency detecting section for comparing a threshold value determined in accordance with the emitting power of the laser light source adjusted by the power adjusting section with a value corresponding to reflected light that is the light beam reflected by an information layer of the information medium (Column 3, lines 64-67 and Column 4, lines 18-25), and detecting the deficiencies on the information layer in accordance with a result of the comparison (Fig. 1, element 55).

In regards to claims 2 and 8, Kaneko et al discloses a deficiency detecting apparatus, wherein the deficiency detecting section determines the threshold value in

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accordance with an emitting power selected from a predetermined range of laser power (Fig. 2, according to the graph the reflection from 15-20% is indicated as a deficiency detection verse laser power 6-10mW is emitted).

In regards to claims 5 and 11, Kaneko et al discloses a deficiency detecting apparatus, wherein the emitting power adjusted by the power adjusting section is composed of plural power levels (Fig. 2, shows plural of power levels), and the deficiency detecting section determines the threshold value in accordance with the highest power level among the plural power levels (Column 3, lines 55-60).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3, 4, 6, 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaneko et al in view of Kawashima et al (US Publication number 2003/0133378). For a description of Kaneko et al see the rejection, supra.

In regards to claims 3 and 9, Kaneko et al does not but Kawashima et al discloses a deficiency detecting apparatus, wherein the deficiency detecting section determines the threshold value in accordance with an average value of the emitting power adjusted by the power adjusting section (Fig. 2C, shows the mean value of the

return light, hence, corresponds to the emitting power on the disc). At the time of the invention it would have been obvious to person of ordinary skill in the art to combine Kaneko apparatus to adjust the power according to the average value as suggested by Kawashima et al. The motivation for doing so would have been to perform an adequate power adjustment (Paragraph [0048]).

In regards to claims 4 and 10, Kaneko et al discloses a deficiency detecting apparatus, wherein the emitting power adjusted by the power adjusting section is composed of plural power levels (Fig. 2, shows plural of power levels), Kaneko et al does not but Kawashima et al discloses the deficiency detecting section determines the threshold value in accordance with the value obtained by summing the plural power levels at predetermined rates (Fig. 5C-G; sample the signals which corresponds to the level of reproducing/recording power and adding to compare with the preset value). The motivation for doing so would have been to sample the level of power to determine better power adjustment.

In regards to claims 6 and 12, Kaneko et al discloses a deficiency detecting apparatus, wherein the emitting power adjusted by the power adjusting section is composed of plural power levels (Fig. 2, shows plural power levels). Kaneko et al does not but Kawashima et al discloses an apparatus, wherein the deficiency detecting section determines the threshold value in accordance with an erasing power level that is used for erasing among the plural power levels (Fig. 13A-B; It is well known, that in order to compare a deficiency value, that there is a preset value (threshold value) to determine the defect value). At the time of the invention it would

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have been obvious to a person of ordinary skill in the art to modify Kaneko et al apparatus to have an erase power level in determining a defect threshold value. The motivation for doing so would have been to improved recording by detecting an area of the deteriorated recording film due to defect.

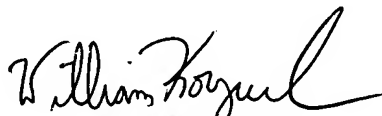
### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Linh T. Nguyen whose telephone number is 571-272-5513. The examiner can normally be reached on 8:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, A. Wellington can be reached on 571-272-4483. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

LN  
March 27, 2006

  
WILLIAM KORZUCH  
SUPERVISORY PATENT EXAMINER  
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